

Message Text

CONFIDENTIAL

PAGE 01 STATE 229857

60

ORIGIN L-03

INFO OCT-01 ARA-16 ISO-00 SCA-01 JUSE-00 RSC-01 SSO-00

/022 R

DRAFTED BY L/EB:HRGAITHER:L/M/SCA:KEMALMBORG

APPROVED BY L/M/SCA:KEMALMBORG

L:MBFELDMAN

----- 055555

O 212158Z NOV 73

FM SECSTATE WASHDC

TO AMEMBASSY NASSAU IMMEDIATE

C O N F I D E N T I A L STATE 229857

E.O. 11652: GDS

TAGS: PFOR, CPRS, BF

SUBJ: EXTRADITION - ROBERT L. VESCO: 1972 PROTOCOL TO
EXTRADITION TREATY

REFS: A. STATE 224830

B. NASSAU 1777

1. DEPT. NEGOTIATOR H. ROWAN GAITHER WHO WAS U.S. REP.
FOR EXTRADITION TREATY NEGOTIATIONS AND NEGOTIATED
U.S.-U.K. AGREEMENT, REVIEWED NOTES WHICH HE TOOK DURING
THE NEGOTIATIONS PRIOR TO THE TRANSMISSION OF REF A.
THOSE NOTES INDICATE CLEARLY, AS SPELLED OUT IN REF A,
THAT THE UK DEL DID NOT BELIEVE THAT THE PROTOCOL WAS
NECESSARY FOR THE REASONS STATED; I.E., THAT THE FEDERAL
JURISDICTIONAL REQUIREMENT WOULD NOT BE CONSIDERED BY THE
UK COURTS AS AN ELEMENT OF THE OFFENSE. EXTRADITION WOULD
BE GRANTED ON THE BASIS OF THE UNDERLYING OFFENSE.

2. THE PROVISION WAS GIVEN TO THE DEPARTMENT BY THE
DEPARTMENT OF JUSTICE DURING THESE AND PREVIOUS AND
SUBSEQUENT NEGOTIATIONS ON THE BASIS THAT IT WOULD
BE HELPFUL TO THE UNITED STATES TO OBTAIN THIS TYPE
OF CLAUSE IN OUR NEW EXTRADITION TREATIES. AS POINTED
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 229857

OUT IN REF A, TWO FORMULAS FOR THE CLAUSE WERE PROPOSED.

THESE FORMULAS HAD BEEN DEVELOPED BY THE DEPARTMENT OF JUSTICE, AND THE UK DELEGATION RELIED ENTIRELY ON THE

U.S. FOR THE LANGUAGE IN THE CLAUSE, IT BEING THEIR VIEW THAT IT WAS AN INTERNAL U.S. PROBLEM AND ONE WHICH THEY FELT NO UK INTEREST WAS INVOLVED.

3. IT IS NOT RPT NOT CORRECT THAT OFFENSES INVOLVING INTERSTATE TRANSPORT OR TRANSPORTATION OR THE USE OF THE MAILS OR OF STATE FACILITIES WERE NOT PREVIOUSLY EXTRADITABLE. THERE HAVE BEEN A NUMBER OF MAIL FRAUD CASES, PARTICULARLY WITH CANADA AND NO DIFFICULTY HAS ARISEN WITH RESPECT TO EXTRADITION. THE REASON FOR THE DESIRE TO INCLUDE THE CLAUSE WAS ON THE BASIS OF SOME PROBLEMS WE HAD IN CONNECTION WITH FEDERAL CASES WHERE INTERSTATE TRANSPORTATION WAS A JURISDICTIONAL REQUIREMENT. THERE WAS ONE CASE IN CANADA WHERE EXTRADITION WAS DENIED ON THE BASIS THAT FEDERAL OFFENSE OF THEFT FROM AN INTERSTATE SHIPMENT WAS AN OFFENSE WHICH DID NOT EXIST IN CANADA AND WAS NOT WITHIN THE EXTRADITION TREATY. THE UNITED STATES BELIEVED THAT THIS CASE WAS WRONGLY DECIDED BECAUSE THEFT WAS THE GRAVEMENS AND INTERSTATE SHIPMENT MERELY JURISDICTIONAL. SEE 6 WHITEMAN'S DIGEST P. 775. THE FEDERAL CRIME OF KIDNAPPING 18 U.S.C. 1201, HOWEVER, MAKES THE OFFENSE THE INTERSTATE TRANSPORTATION OF KIDNAPPED PERSONS, AND THERE THE ARGUMENT COULD BE MADE THAT TRANSPORTATION, NOT KIDNAPPING, IS THE GRAVEMEN. SEE 6 WHITEMAN'S DIGEST P. 790. THE CLAUSE WAS BROADENED SO THAT ANY AMBIGUITY WOULD BE AVOIDED IN RELATIVELY SIMILAR TYPES OF CASES. THERE WAS NO RPT NO INTENTION THAT THE PROTOCOL WAS IN ESSENCE ADDING NEW OFFENSES NOT PREVIOUSLY INCLUDED IN THE U.S.-U.K. AGREEMENT, BUT TO AVOID ARTIFICIAL DISTINCTIONS BEING MADE BETWEEN FEDERAL OFFENSES ON THE BASIS OF WHETHER SUBSTANTIVE OFFENSE OR JURISDICTIONAL CLAUSE WAS SUBORDINATE GRAMMATICALLY.

4. EMBASSY IS CORRECT THAT PROTOCOL IS NOT YET IN EFFECT. THE TREATY HAS BEEN SIGNED BUT NOT RATIFIED BY EITHER PARTY.

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 229857

5. OUR RECORDS DO NOT SHOW ANY REQUEST FOR EXTRADITION FOR MAIL FRAUD ADDRESSED TO U.K.

6. THERE ARE NO AGREED MINUTES FROM U.S.-U.K. TALKS LEADING TO THE PROTOCOL. THE ONLY MINUTES AVAILABLE IN THE DEPARTMENT ARE THE HAND WRITTEN NOTES TAKEN BY THE U.S. NEGOTIATOR DURING THE TALKS THEMSELVES.

7. CANADIAN EXTRADITION CASE FOR MAIL FRAUD IS DESCRIBED
IN 6 WHITEMAN'S DIGEST PAGES 901 TO 902.

8. GAITHER AFFIDAVIT, CASES COLLECTED BY JUSTICE FOR
CURRAN AND DECISION FROM LONDON BEING SENT ON EASTERN
FLIGHT TO MIAMI NOVEMBER 21 AND WILL BE PICKED UP THERE
FOR ONWARD CARRIAGE TO NASSAU. KISSINGER

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: EXTRADITION, EXTRADITION AGREEMENTS, TRIALS
Control Number: n/a
Copy: SINGLE
Draft Date: 21 NOV 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: collinp0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973STATE229857
Document Source: CORE
Document Unique ID: 00
Drafter: HRGATHER:L/M/SCA:KEMALMBORG
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: n/a
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19731119/aaaaanpl.tel
Line Count: 124
Locator: TEXT ON-LINE
Office: ORIGIN L
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: A. STATE 224830
Review Action: RELEASED, APPROVED
Review Authority: collinp0
Review Comment: n/a
Review Content Flags:
Review Date: 16 JAN 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <16-Jan-2002 by kelleyw0>; APPROVED <07 MAR 2002 by collinp0>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: EXTRADITION - ROBERT L. VESCO: 1972 PROTOCOL TO EXTRADITION TREATY
TAGS: PFOR, CPRS, BF, US, UK, (VESCO, ROBERT)
To: NASSAU
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005